

DOCKET FILE CC PY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)

)
Telecommunication Relay Services and
Speech-to-Speech Services for
Individuals with Hearing and Speech
Disabilities)

Americans With Disabilities Act of 1990)

CC Docket No. 98-67

CG Docket No. 03-123

JUN 18 2003

**SECOND REPORT AND ORDER, ORDER ON RECONSIDERATION,
AND NOTICE OF PROPOSED RULEMAKING**

Adopted: May 15, 2003**Released: June 17, 2003**

Comment Date: 30 days after Federal Register publication of this NPRM

Reply Date: 45 days after Federal Register publication of this NPRM

By the Commission: Chairman Powell and Commissioner Adelstein issuing separate statements;
Commissioner Copps approving in part, concurring in part and issuing a statement.

| | | |
|------|--|----|
| I. | INTRODUCTION | 3 |
| II. | BACKGROUND | 6 |
| III. | EXECUTIVE SUMMARY | 10 |
| IV. | REPORT AND ORDER IN CC DOCKET NO. 98-67 | 11 |
| A. | Availability of SS7 Technology to TRS Facilities | 11 |
| 1. | TRS Providers' Access to SS7 Technology | 13 |
| 2. | Transmittal of Calling Party Information | 16 |
| B. | Operational Standards | 18 |
| 1. | Types of Calls | 18 |
| a. | Two-line VCO and Two-line HCO | 18 |
| b. | HCO-to-TTY and HCO-to-HCO | 20 |
| c. | VCO-to-TTY and VCO-to-VCO | 20 |
| d. | Waivers for IP Relay and VRS | 21 |
| 2. | Handling of Emergency Calls | 22 |
| a. | Appropriate PSAP - Wireline | 24 |
| b. | Appropriate PSAP - Wireless | 25 |
| 3. | Access to Speech-to-Speech Relay Services | 26 |
| a. | Separate STS Nationwide Number | 26 |
| b. | Use of Dialing Menu | 28 |

| | | |
|-------|---|----|
| C. | Technical Standards | 29 |
| 1. | Equal Access to Interexchange Carriers..... | 29 |
| 2. | Additional TRS Features and Services..... | 32 |
| a. | Answering Machine Message Retrieval..... | 33 |
| b. | Automatic call forwarding..... | 34 |
| c. | Call Release..... | 35 |
| d. | Speed dialing..... | 36 |
| e. | Three-way calling..... | 36 |
| f. | Waivers for IP Relay and VRS..... | 38 |
| D. | Public Access to Information and Outreach | 38 |
| V. | ORDER ON RECONSIDERATION IN CC DOCKET NO. 98-67..... | 40 |
| A. | Introduction | 40 |
| B. | Discussion | 41 |
| 1. | Communication Assistants (CAs) | 41 |
| a. | CA Minimum Typing Speed at Hire | 41 |
| b. | CA 'Hot Key' To Alert Caller To Pre-Recorded Message | 42 |
| c. | CA In-Call Replacement Time and Session Logs for STS | 43 |
| d. | Qualified Interpreter Definition..... | 43 |
| 2. | Speed of Answer Requirement..... | 45 |
| a. | Abandoned Calls | 45 |
| b. | Speed-Of-Answer Requirements for STS and VRS..... | 45 |
| 3. | Non-Shared Language TRS..... | 46 |
| 4. | Procedural Issues..... | 47 |
| a. | Consumer Complaint Logs..... | 47 |
| b. | Reorganization and/or Consolidation of Rules | 47 |
| c. | Extension of Time For Effective Date of Rules | 48 |
| VI. | NOTICE OF PROPOSED RULEMAKING IN CG DOCKET NO. 03-123 | 48 |
| A. | National Security/Emergency Preparedness for TRS Facilities and Services..... | 48 |
| B. | Mandatory Minimum Standards..... | 50 |
| 1. | Operational Standards | 50 |
| a. | Security of IP Relay Calls | 50 |
| b. | Emergency Call Handling over Wireless Networks..... | 50 |
| c. | Non-English Language TRS | 51 |
| 2. | Technical Standards | 53 |
| a. | Speed of Answer and Call Set-up Time | 53 |
| b. | TRS Facilities..... | 54 |
| (i) | Communication Access Real-time Translation..... | 54 |
| (ii) | Interrupt Functionality..... | 55 |
| (iii) | TRS Consumers' LEC Offerings | 55 |
| (iv) | Talking Return Call..... | 56 |
| c. | Technology..... | 56 |
| (i) | Speech Recognition Technology..... | 56 |
| (ii) | Transmission Speed..... | 57 |
| (iii) | TTY Protocols..... | 57 |
| C. | Public Access to Information and Outreach | 58 |

| | | |
|-------|---|----|
| D. | Procedures for Determining TRS Providers' Eligibility for Receiving Payments from the Interstate TRS Fund | 60 |
| VII. | PROCEDURAL MATTERS | 62 |
| A. | <i>Ex parte</i> Presentations | 62 |
| B. | Regulatory Flexibility Act | 63 |
| C. | Paperwork Reduction Act | 63 |
| D. | Comment and Reply Dates for NPRM in CG Docket No. 03-123 | 63 |
| VIII. | ORDERING CLAUSES | 64 |

APPENDIX A: LIST OF PARTIES

APPENDIX B: FINAL REGULATORY FLEXIBILITY ANALYSIS (FRFA)

APPENDIX C: INITIAL REGULATORY FLEXIBILITY ANALYSIS (IRFA)

APPENDIX D: FINAL RULES

APPENDIX E: PROPOSED RULES FOR ELIGIBILITY FOR CERTIFICATION

I. INTRODUCTION

1. In this *Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking (Order)*¹ the Commission promulgates new rules and amends existing rules² (set forth in Appendix D) further implementing Title IV (Title IV) of the Americans with Disabilities Act of 1990 (ADA),³ relating to telecommunications relay services (TRS).⁴ In this

¹ Proceedings that involve notices of proposed rulemakings, requests for comment, and petitions for reconsideration to which this action responds are: (1) *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-67, FCC 00-56, 15 FCC Rcd 5140 (2000) (*Improved TRS Order & FNPRM*); (2) *In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Declaratory Ruling and Second Further Notice of Proposed Rulemaking*, CC Docket No. 98-67, FCC 02-121, 17 FCC Rcd 7779 (2002) (*IP Relay Declaratory Ruling & FNPRM*); and (3) *Pleading Cycle Established for Comment on Clarification of Procedures for Emergency Calls at Telecommunications Relay Services (TRS) Centers*, Public Notice, CC Docket No. 98-67, DA 02-1826, 17 FCC Rcd 14,539 (rel'd July 29, 2002) (*PSAP Public Notice*).

² 47 C.F.R. § 64.601 *et seq.*

³ Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990), adding Section 225 to the Communications Act of 1934 (Act), as amended, 47 U.S.C. § 225; implementing regulations at 47 C.F.R. § 64.601 *et seq.* In Title IV, Congress announced that "[i]n order to carry out the purposes established under section 1 [of the Communications Act of 1934], to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are

(continued....)

Order, we conclude that it is in the interest of administrative efficiency to consolidate various pending rulemaking proceedings.⁵ This *Order* contains a *Report and Order* addressing issues arising from the *Improved TRS Order & FNPRM*, and comments received in response thereto.⁶ This *Order* also includes an *Order on Reconsideration*, addressing several petitions for reconsideration and/or clarification (*Petitions*)⁷ of the *Improved TRS Order*. Further, this *Order* contains a *Notice of Proposed Rulemaking (NPRM)* seeking comment on various matters,

(...continued from previous page)

available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.” 47 U.S.C. § 225(b)(1). As the legislative history makes clear, the enactment of Title IV was intended to further the universal service mandate of Section 1 of the Communications Act. For example, the House Report accompanying passage of the ADA noted that “[t]he inability of over 26 million [hearing-impaired and speech-impaired] Americans to access fully the Nation’s telephone system poses a serious threat to the full attainment of the goal of universal service.” H.R. Rep. No. 485, Pt. 2, 101st Cong., 2d Sess. 129 (1990) (House Report); *see also* S. Rep. No. 116, 101st Cong., 1st Sess. 77-78 (1969) (Senate Report).

⁴ The term *telecommunications relay service* means “telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio.” 47 U.S.C. § 225(a)(3). TRS “includes services that enable two-way communication between an individual who uses a [TTY] or other nonvoice terminal device, and an individual who does not use such a device,” *id.*, as well as speech-to-speech services (STS), video relay services (VRS), and non-English relay services, *see* 47 C.F.R. § 64.601(11), (12), & (13), respectively. A TRS user may also connect to a TRS facility via a computer (or other similar device) through the Internet (known as IP Relay). *See IP Relay Declaratory Ruling*, 17 FCC Rcd 7779 (2002) at ¶¶ 15-35.

⁵ In deciding this matter, the comments and replies of all parties filed in the *Improved TRS Order & FNPRM*, *IP Relay Declaratory Ruling & FNPRM*, and the *PSAP Public Notice* proceedings, including petitions and comments in response to petitions for reconsideration and/or clarification, have been reviewed and considered. We have determined that these proceedings raise many of the same issues, cover the same statutory authority (47 U.S.C. § 225), and involve comments by or on behalf of the same industries, consumers, TRS programs, and TRS providers. Many of the same parties submitted filings in each proceeding. A list of the commenters to the various notices (*Improved TRS FNPRM*, *IP Relay Declaratory Ruling FNPRM*, *PSAP Public Notice*), as well as the abbreviations used in this *Order* to refer to such parties, are contained in Appendix A. Comments to which we cite in this *Order* refer to comments received in response to the *Improved TRS FNPRM*, unless otherwise indicated.

⁶ Generally, commenters represent the interests of one of the following groups: (1) consumers of TRS; (2) organizations representative of consumers of TRS; (3) state TRS programs and state TRS program administrators; (4) national and state emergency service providers’ associations; and (5) common carriers and TRS providers. Some of the common carriers that provided comments in this proceeding are also TRS providers. Over seventy TRS consumers provided comments in this proceeding. Many of the consumer commenters identified themselves as “STS Consumers,” and presented comment only on issues relating to the provision of and access to STS relay services. These STS Consumers all agreed on issues raised in their comments. For administrative efficiency, we will identify this group as STS Consumers when referencing comments from that collective group.

⁷ Petitions were filed by Florida Public Service Commission (Florida PSC); National Association of State Relay Administrators (NASRA); VISTA Information Technologies, Inc. (VISTA); Public Utility Commission of Texas (Texas PUC); SBC Communications Inc. (SBC); and WorldCom, Inc. (collectively, Petitioners).

including the applicability of certain technological advances to TRS, to further the goal of functional equivalency of TRS for persons with hearing and speech disabilities.⁸

2. The purpose of the ADA is to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities,⁹ and to ensure that federal entities such as the Commission play a central role in enforcing the requirements of the ADA to this end. In adopting Title IV of the ADA, Congress recognized that persons with hearing and speech disabilities have long experienced barriers to their ability to access, utilize, and benefit from telecommunications services.¹⁰ As a result, Title IV mandates that the Commission ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to individuals in the United States with hearing and speech disabilities. The intent of Title IV is to further the Communications Act's goal of universal service by providing to individuals with hearing or speech disabilities telephone services that are functionally equivalent to those available to individuals without such disabilities.¹¹

3. Over the past decade, the Commission has undertaken a number of initiatives to enable persons with disabilities to better access the broad range of telecommunications and information services available today.¹² For persons with hearing and speech disabilities, these initiatives mean being able to "get connected," so that they may participate fully in the economic and social fabric of American life, now shaped by the telecommunications revolution and information age.

4. Central to these efforts has been the adoption of TRS, designed to give persons with hearing or speech disabilities "functionally equivalent" access to our nation's telecommunications network. In this *Order*, we take another significant step toward fulfilling the goals of Title IV of the ADA by requiring additional TRS features and services to facilitate and expand the use of TRS by persons with hearing and speech disabilities.¹³ With increased competition in the local exchange carrier marketplace, more people are accessing

⁸ The *NPRM* is being issued under a new docket number, different from CC Docket No. 98-67. CC Docket No. 98-67 will remain open for ongoing filings of recurring items, such as cost recovery proceedings and annual reports or complaint logs from TRS providers and certified state TRS programs. The new rulemaking docket is established to further administrative efficiency and reflect the new organizational structure of the Commission.

⁹ See Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990), Americans With Disabilities Act of 1990 (ADA). The preamble to the ADA states that the Act is "[a]n Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability." See Purpose and Summary, 1990 U.S.C.C.A.N. 512.

¹⁰ See, e.g., House Report at 129; see also Senate Report at 77-78.

¹¹ See, e.g., House Report at 129.

¹² See, e.g., *Improved TRS Order* at ¶ 88. The Commission determined that TRS is not limited to telecommunications services but also reaches "enhanced or information services."

¹³ We note that the Commission has responsibility in other areas that affect access to telecommunications services by persons with disabilities, including implementation of Section 255 of the Act (which requires telecommunications services and equipment to be accessible and usable by persons with disabilities when readily achievable), hearing aid compatibility, and E911-TTY compatibility.

telecommunications services of every kind, including TRS. Also, TRS fosters greater access to and use of broadband. For example, many TRS users have upgraded their Internet access to a high-speed, broadband connection through a cable modem or DSL subscription in order to use video relay service (VRS)¹⁴ and IP Relay more efficiently and effectively.

II. BACKGROUND

5. Title IV of the ADA requires the Commission to ensure that TRS is available to the extent possible and in the most efficient manner to persons with hearing or speech disabilities in the United States.¹⁵ TRS enables an individual with a hearing or speech disability to communicate by telephone or other device with a hearing individual. This is accomplished through TRS facilities¹⁶ that are staffed by specially trained communications assistants (CAs)¹⁷ using special technology. The CA relays conversations between persons using various types of assistive communication devices¹⁸ and persons who do not require such assistive devices. When a person with a hearing or speech disability makes a traditional TRS call,¹⁹ the user dials a telephone number for a TRS facility using a text-telephone (TTY). In this context, the first step for the TRS user,²⁰ the completion of the outbound call to the TRS facility, is functionally equivalent to receiving a "dial tone."²¹ The caller then types the number of the party he or she desires to call. The CA, in turn, places an outbound voice call to the called party.²² The CA serves as the "link" in the conversation, converting all TTY messages from the caller into voice messages, and all voice messages from the called party into typed messages for the TTY user. The process is performed in reverse when a voice telephone user initiates a traditional TRS call to a TTY user.

6. The Commission issued its first order pursuant to Title IV of the ADA

¹⁴ Video relay service (VRS) is a telecommunications relay service that allows individuals with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller. 47 C.F.R. § 64.601(12).

¹⁵ 47 U.S.C. § 225(b)(1). *See also* House Report at 129.

¹⁶ 47 C.F.R. § 64.604(b)(4) (setting forth requirements of TRS facilities). The term "TRS center" is sometimes used interchangeably with "TRS facility." In this action, we use the term "TRS facility." *See* 47 C.F.R. § 64.604(b)(4), as amended, set forth in Appendix D.

¹⁷ 47 C.F.R. § 64.601(6).

¹⁸ An assistive communication device is a type of assistive technology, such as a TTY, personal computer, amplifier, or video camera.

¹⁹ Traditional TRS is that accomplished via text-to-voice or voice-to-text, with the text provided via TTY. IP Relay functions similarly with the text provided to, and received from, the CA via the TRS consumer's computer or other web-enabled device.

²⁰ This step of the call to the TRS facility is also referred to as the first leg of a TRS call.

²¹ *See, e.g., Improved TRS Order* at ¶ 2.

²² This step, the CA making the outgoing call, is also referred to as the second leg of a TRS call.

implementing TRS on July 26, 1991.²³ TRS became available on a uniform, nationwide basis pursuant to Commission regulations in July 1993.²⁴ Since 1991, the Commission has revisited the regulations governing TRS on numerous occasions, in part, to make available to consumers new forms of TRS, and to amend the mandatory minimum standards²⁵ to improve the quality of TRS, consistent with the goal of functional equivalency set forth in section 225.²⁶ Through these actions the Commission has broadly defined TRS to include any service that enables persons with hearing or speech disabilities to use the telecommunications network to communicate by wire or radio, and not be limited to either telecommunications services²⁷ or services that require a TTY.²⁸

²³ *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657 (1991) (*First TRS Report and Order*).

²⁴ 47 U.S.C. § 225(b)(1). Section 225 requires common carriers providing telephone voice transmission services to provide TRS throughout the areas they serve. The statute mandated an implementation date of no later than July 26, 1993. See 47 U.S.C. § 225(c). Prior to the enactment of Title IV, some states offered relay services, but the services offered differed from state to state, were subject to many limitations, and were generally limited to intrastate calls. See Strauss, Title IV – Telecommunications, Implementing The Americans With Disabilities Act at 156-158 (Gostin & Beyer ed. 1993).

²⁵ 47 C.F.R. § 64.604. The purpose of the mandatory minimum standards is to ensure that TRS is offered in an efficient and consistent manner throughout the United States. The Commission, as directed by Section 225, established mandatory minimum operational, technical, and functional standards. See 47 C.F.R. § 64.604(a)-(c); see also *First TRS Report and Order*, 6 FCC Rcd 4657 at ¶ 1.

²⁶ See, e.g., *Telecommunications Services for Hearing-Impaired and Speech Impaired Individuals, and the Americans with Disabilities Act of 1990*, Notice of Proposed Rulemaking, CC Docket No. 90-571, FCC 90-376, 5 FCC Rcd 7187 (1990); Report and Order and Request for Comments, FCC 91-213, 6 FCC Rcd 4657 (1991) (*First TRS Report & Order*); Order on Reconsideration, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 93-104, 8 FCC Rcd 1802 (1993); Third Report and Order, FCC 93-357, 8 FCC Rcd 5300 (1993); Memorandum Opinion and Order, DA 93-1001, 8 FCC Rcd 6160 (1993); Second Order on Reconsideration and Fourth Report and Order, FCC 93-463, 9 FCC Rcd 1637 (1993); Order, DA 93-1317, 8 FCC Rcd 8385 (1993); Notice of Inquiry, FCC 97-07, 12 FCC Rcd 1152 (1997); Notice of Proposed Rulemaking, FCC 98-90, 13 FCC Rcd 14,187 (1998) (*1998 TRS Notice of Proposed Rulemaking*); Waiver Order, DA 02-1166, 17 FCC Rcd 8840 (2002); Fifth Report and Order, FCC 02-269, 17 FCC Rcd 21,233 (2002) (*Fifth Coin Sent-Paid Report & Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 00-56, 15 FCC Rcd 5140 (2000) (*Improved TRS Order & FNPRM*), Order on Reconsideration, FCC 00-200, 16 FCC Rcd 4054 (2000) (*Improved TRS Order on Reconsideration*); Order, CC Docket No. 98-67, DA 01-492, 16 FCC Rcd 4662 (2001); Waiver Order, DA 01-492 (2001); Report and Order & FNPRM, FCC 01-371, 16 FCC Rcd 22,948 (2001) (*STS/VRS Order & FNPRM*); Order, DA 01-3029, 17 FCC Rcd 157 (2001); Waiver Order, DA 01-3029 17 FCC Rcd 157 (2001); Declaratory Ruling and Second Further Notice of Proposed Rule Making, FCC 02-121, 17 FCC Rcd 7779 (2002) (*IP Relay Declaratory Ruling & FNPRM*), Order on Reconsideration, FCC 03-46, (*rel'd* March 14, 2003), 68 FR 18825 (published April 16, 2003) (*IP Relay Order on Reconsideration*).

²⁷ See *Improved TRS Order* at ¶ 88 (“We find that section 225 does not limit relay services to telecommunications services, but...reaches enhanced or information services.”).

²⁸ See, e.g., *Improved TRS Order* at ¶ 13.

7. In March 2000, the Commission issued the *Improved TRS Order*, which changed many of the definitions and standards for traditional TRS.²⁹ The Commission also added speech-to-speech (STS)³⁰ and interstate Spanish relay services³¹ as required forms of TRS. The Commission further concluded that VRS was a form of TRS, but tentatively concluded that the provision of VRS should not be mandatory given its technological infancy. The Commission nevertheless encouraged the use and development of VRS,³² and to this end stated that, on an interim basis, all VRS calls would be eligible for cost recovery through the interstate TRS funding mechanism (Interstate TRS Fund).³³ Several petitions for reconsideration were subsequently filed, challenging several aspects of the *Improved TRS Order*.³⁴

8. In the *Improved TRS FNPRM*, we sought comment on whether the Commission should require that TRS provide a number of additional features that reflect advancements in technologies and telecommunication offerings currently available to nondisabled persons throughout the United States.³⁵ The Commission noted that section 225, consistent with section 7(a) of the Act,³⁶ requires us to ensure that the rules we prescribe to implement section 225 encourage “the use of existing technology and do not discourage or impair the development of improved technology.”³⁷ The Commission concluded that the functional equivalency standard requires that those technological services currently offered to nondisabled persons should also be

²⁹ *Improved TRS Order passim*.

³⁰ *Improved TRS Order* at ¶¶ 15-21; 47 C.F.R. § 64.601(11).

³¹ 47 C.F.R. § 64.601(13).

³² *Improved TRS Order* at ¶¶ 23-27.

³³ *Improved TRS Order* at ¶ 26. The Interstate TRS Fund is a fund into which common carriers “providing interstate telecommunications services . . . [based on those carriers’] interstate end-user telecommunications revenues” pay. The Interstate TRS Fund, in turn, compensates eligible TRS providers for their reasonable costs of providing TRS. 47 C.F.R. § 64.604(c)(5)(iii). 47 U.S.C. § 225(d)(3) requires that “costs from interstate telecommunications relay service shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay service shall be recovered from the intrastate jurisdiction.” The Interstate TRS Fund was established to administer the recovery of costs for interstate TRS. See *Telecommunications Relay Service, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Third Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd 5300 n.34 (1993). In 2001, the Commission addressed cost recovery methods for traditional TRS, Speech-to-Speech relay (STS), and Video Relay Service (VRS), and sought additional comments on the appropriate cost recovery mechanisms for VRS. See *Telecommunications Services for Individuals with Hearing and Speech Disabilities – Recommended TRS Cost Recovery Guidelines/Request by Hamilton Telephone Company for Clarification and Temporary Waivers*, CC Docket No. 98-67, FCC 01-371, 16 FCC Rcd 22948, (2001)(*STS/VRS Order*).

³⁴ We address these *Petitions* below in the *Order on Reconsideration*.

³⁵ *Improved TRS FNPRM* at ¶¶ 137-146.

³⁶ 47 U.S.C. § 7(a), providing, in part, that “it shall be the policy of the United States to encourage the provision of new technologies and services to the public.”

³⁷ *Improved TRS FNPRM* at ¶ 137; see also 47 U.S.C. § 225(d)(2).

available to persons with disabilities, if it is technologically³⁸ feasible to do so.³⁹

9. On April 22, 2002, the Commission released the *IP Relay Declaratory Ruling & FNPRM*, which further expanded the scope of TRS by concluding that IP Relay falls within the statutory definition of TRS. Although the Commission did not require that TRS providers offer IP Relay, the Commission authorized, on an interim basis, recovery of the costs of providing both intrastate and interstate IP Relay from the Interstate TRS Fund.⁴⁰ That declaratory ruling also temporarily or permanently waived the applicability of certain mandatory minimum standards because they either do not apply to IP Relay or IP Relay's technology required further development to meet the standards.⁴¹ Several parties subsequently filed Petitions for Reconsideration and/or Clarification,⁴² urging us to extend certain one-year waivers granted in that order and to grant additional waivers of the requirements to provide hearing carry over (HCO)⁴³ and 900-number services⁴⁴ over IP Relay. On March 14, 2003, the Commission extended or granted waivers of mandatory minimum standards requiring the provision of voice carry over (VCO),⁴⁵ HCO, emergency call handling, and 900-number services over IP Relay until January 01, 2008.⁴⁶

³⁸ Although in the past we have generally used the phrase "technically feasible" to describe the level of feasibility that triggers the obligation to provide a certain TRS service or feature, we find that the phrase "technologically feasible" is more accurate in this context. We note that we have used the phrase "technologically feasible" in related contexts. See, e.g., *Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, Notice of Proposed Rulemaking*, WT Docket No. 01-309, 16 FCC Rcd 20,558 (2001); *Implementation of 911 Act, Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Fifth Report and Order, CC Docket No. 92-105, First Report and Order, WT Docket No. 00-110 (2001).

³⁹ *Improved TRS FNPRM* at ¶¶ 137-138.

⁴⁰ See generally *IP Relay Declaratory Ruling* at ¶¶ 15-26.

⁴¹ *IP Relay Declaratory Ruling* at ¶¶ 33-35.

⁴² See, e.g., *Petition for Reconsideration WorldCom, Inc., Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, filed by WorldCom Inc., on May 22, 2002 (*WorldCom IP Relay Recon Petition*); *Petition for Limited Reconsideration, Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, filed by Sprint Corporation July 11, 2002 (*Sprint IP Relay Recon Petition*).

⁴³ Hearing Carry Over (HCO) service is a form of TRS used by persons with speech disabilities who are able to listen to the other end user. The communications assistant speaks the text as typed by the person with the speech disability, but does not type any conversation. See 47 C.F.R. § 64.601(7).

⁴⁴ 900-number service is a type of pay-per-call service. See 47 C.F.R. § 64.1501.

⁴⁵ Voice Carry Over (VCO) service is a form of TRS used by persons with hearing disabilities who are able to speak directly to the other end user. The communications assistant types the response back to the person with the hearing disability, but does not voice the conversation. See 47 C.F.R. § 64.601(10).

⁴⁶ See *IP Relay Order on Reconsideration*, CC Docket No. 98-67, FCC 03-46, 68 FR 18828 (published April 16, 2003). Should technology advance in the interim to make the provision of these services technologically or practically feasible over IP Relay, we will revisit these waivers at that time.

III. EXECUTIVE SUMMARY

10. In this *Report and Order*, the Commission establishes new rules and amends existing rules governing TRS to further advance the functional equivalency mandate of section 225. First, we require that TRS providers offer certain LEC-based improved services and features where technologically feasible,⁴⁷ several additional types of TRS calls,⁴⁸ and other services and features⁴⁹ through which consumers with varying needs, abilities, and preferences may access and use TRS. In addition, we require that all TRS providers successfully implement 711 dialing access for STS users. This *Report and Order* also revises the requirements for handling emergency calls. Finally, we provide guidance for public access to TRS-related information to improve the usability of TRS for all Americans. These amended and new rules will improve the overall effectiveness of TRS to ensure that persons with hearing and speech disabilities have access to telecommunications networks that is consistent with the goal of functional equivalency mandated by Congress.

11. In the *Order on Reconsideration*, we address petitions filed in response to the *Improved TRS Order* by the Florida Public Service Commission (Florida PSC), the National Association of State Relay Administrators (NASRA), VISTA Technologies (VISTA), the Public Utility Commission of Texas (Texas PUC), and WorldCom, Inc. (WorldCom) (collectively, Petitioners).⁵⁰ Petitioners seek reconsideration of certain aspects of the *Improved TRS Order*. We address the issues raised, and grant in part and deny in part these Petitions for Reconsideration.

12. The Commission is also issuing a *Notice of Proposed Rulemaking (NPRM)* seeking public comment on additional TRS issues, including the applicability of certain technological advances to TRS. In doing so, the Commission seeks to further explore ways to improve the quality of TRS and broaden the potential universe of TRS users consistent with the Congressional mandate that our regulations encourage the use of existing technology and not discourage or impair the development of new technology.⁵¹ The *NPRM* proposes to require new mandatory minimum standards specific to the operational, technical, and functional mandatory minimum standards currently set forth in 47 C.F.R. § 64.604. The *NPRM* also seeks comment

⁴⁷ For example, new features that may be LEC-based include Caller ID and three-way calling.

⁴⁸ New mandatory types of TRS calls are: (1) two-line VCO; (2) two-line HCO; (3) VCO-to-TTY; (4) VCO-to-VCO; (5) HCO-to-TTY; and (6) HCO-to-HCO.

⁴⁹ Other such services and features that may involve new technologies or require new tasks to be preformed by a CA include: (1) answering machine retrieval; (2) call release; and (3) three-way or conference calling.

⁵⁰ See Florida PSC *Petition for Reconsideration and Clarification of Improved TRS Order*, filed April 12, 2000 and Request for Waiver for Extension of Time to Implement Improved TRS Order filed Oct. 24, 2000 (*Florida PSC Petition*); NASRA *ex parte* Comments and Request for Reconsideration of Effective Date of Amended Rules filed May 5, 2000 (*NASRA Petition*); SBC *Petition for Reconsideration or Clarification* filed July 21, 2000, *withdrawn* August 10, 2001 (*SBC Petition*); Texas PUC *Petition for Reconsideration* filed March 24, 2000 (*Texas PUC Petition*); Vista *Petition for Reconsideration* filed June 13, 2000 (*Vista Petition*); WorldCom *Petition for Reconsideration* filed July 21, 2000, one issue withdrawn per *ex parte* meeting and letter dated June 6, 2001 (*WorldCom Petition*).

⁵¹ See 47 U.S.C. § 225(d)(2).

on whether TRS and TRS facilities should be included among those services and facilities eligible for priority restoration in the event of a disaster or breakdown of the infrastructure supporting a TRS facility's telecommunications.⁵² We also seek comment on the obligations of TRS providers to engage in outreach activities.

IV. REPORT AND ORDER IN CC DOCKET NO. 98-67

13. In the *Improved TRS FNPRM*, the Commission tentatively concluded that all telecommunications services and features provided to the general public should be available to TRS users.⁵³ The Commission therefore proposed requiring TRS to provide a number of features that the Commission categorized as: (1) TRS features already provided by some states; (2) features available to users of voice telecommunication services; or (3) new types of technologies.⁵⁴ The Commission also sought comment on whether various technologies and TTY protocol standards can and should be integrated within, or available to, the TRS infrastructure.⁵⁵ The Commission addresses these and related matters below, as they apply to the operational, technical, and functional standards set forth in section 64.604 of our TRS rules.⁵⁶

A. Availability of SS7 Technology to TRS Facilities

14. Background. In the *Improved TRS FNPRM*, the Commission sought comment on whether 47 C.F.R. § 64.1600 should be amended to include TRS providers as lawful recipients and users of signaling system 7 (SS7) data. Although in the *Improved TRS FNPRM* the Commission tentatively concluded that SS7 technology could improve TRS, the Commission also tentatively concluded that "our rules do not allow entities other than common carriers to purchase SS7 service" because the Commission has adopted a definition of SS7 as a "carrier to carrier out-of-band network that is used for call routing, billing and management."⁵⁷ The Commission therefore sought comment on whether our regulations should be amended to permit TRS providers to have access to SS7 technology as a tool by which TRS providers could improve TRS and further the goal of functional equivalency.⁵⁸ The Commission further sought comment whether, even if our tentative conclusion was correct, the Commission has jurisdiction

⁵² See, e.g., *Federal Communications Commission Strategic Plan FY 2003-2008* at 18-20, <http://www.fcc.gov/omd/strategicplan/>.

⁵³ *Improved TRS FNPRM* at ¶ 138.

⁵⁴ *Improved TRS FNPRM* at ¶¶ 137-38. The Commission also requested comment on the use of the World Wide Web for voice communications, internet telephony, and whether other technologies might improve TRS or should be available via TRS. The Commission will address these issues in a subsequent proceeding.

⁵⁵ *Improved TRS FNPRM* at ¶¶ 138-146. TTY protocol standards include V.18, Baudot, and ASCII. See generally 47 C.F.R. § 64.601.

⁵⁶ 47 C.F.R. § 64.604.

⁵⁷ See *Improved TRS FNPRM* at ¶ 127, referencing 47 C.F.R. § 64.1600(f). The Commission suggested that this definition did not allow entities other than common carriers to have access to SS7 technology. See also *See generally Rules and Policies Regarding Calling Number Identification Service—Caller ID*, CC Docket No. 91-281, Report and Order and FNPRM, 9 FCC Rcd 1764 (1994) (*1994 Caller ID Order*).

⁵⁸ *Improved TRS FNPRM* at ¶¶ 127-133.

to allow TRS facilities access to SS7 technology.⁵⁹

15. The Commission concluded, first, that SS7 and similar technologies allow for the transmission of certain call-related information necessary for Caller ID, such as a caller's originating number, from one carrier to another carrier.⁶⁰ These technologies also permit the Caller ID blocking and unblocking feature required by the Commission's rules where Caller ID information is passed through the network.⁶¹ Without SS7 or a similar technology, TRS facilities cannot receive or transmit Caller ID information and associated blocking or unblocking requests.⁶² Second, the Commission concluded that access to SS7 and similar technologies could enable TRS facilities to improve caller access to 911 services.⁶³ Third, the Commission noted that transferring an emergency call automatically to a PSAP could eliminate the need for TRS providers to manually collect some of the information that is compiled in caller profiles that normally resides in the public switched telephone network.⁶⁴

16. Discussion We conclude that no amendment to our rules is necessary to permit TRS facilities to use SS7 and similar technologies. The relevant issue, then, is whether TRS providers should have access to SS7 or similar technologies and, in turn, whether they can use such technology in compliance with our rules. We find nothing in the record that precludes us from concluding that if TRS facilities have access to SS7 technology, they will be able to fully utilize the potential for both passing on the CPN information and honoring a consumer's Caller ID blocking request. We therefore conclude that TRS providers should have access to SS7 or similar technology to make Caller ID and other benefits available to their customers and otherwise facilitate their provision of TRS.

⁵⁹ *Improved TRS FNPRM* at ¶ 127.

⁶⁰ *Improved TRS FNPRM* at ¶¶ 127-129; *see also* TDI Comments at 7-11.

⁶¹ *See generally* 1994 Caller ID Order.

⁶² *See, e.g.*, TDI Comments at 8. TDI states that use of SS7 data would alleviate frustrating difficulties faced by a TTY user in receiving and sending Caller ID data. TDI explains, for example, that where a called party "blocks" calls that are not identifiable, that called party's telephone refuses a TRS call where the TRS facility is unable to send Caller ID data. Such a call results in a "Not Available" message, and the called party's blocking set-up "blocks" the unidentified incoming TRS call. This may occur when an outgoing leg of a TRS call does not send signaling information through the TRS facility's LEC network. *See also* NAD/TAN/CAN Comments at 15-16; Maryland Dept. of Budget and Mgt. Comments at 1-2; SHHH Comments at 5-6.

⁶³ *Improved TRS FNPRM* at ¶ 132.

⁶⁴ A caller, or consumer, profile is a collection of information provided by the TRS consumer to the TRS provider. The information collected typically includes, but is not limited to: the consumer's name, address, CA gender preference, carrier of choice, frequently dialed numbers for speed dialing, language preference, preferred CA typing speed, and communication preferences. Maintaining this database of information allows the TRS provider to offer more efficient and streamlined services. TRS providers call their consumer profile a variety of names. For example, AT&T calls theirs "Relay Choice Profile," Sprint refers to theirs as "Customer Database," Hamilton Relay uses "Customer Profile," and WorldCom uses the term "Caller Profile." *See, e.g.*, California PUC Comments at 4; Maryland Dept. of Budget and Mgt. Comments at 1-2; NAD/TAN/CAN Comments at 15; Sprint Comments at 5; TDI Comments at 8-9; *see also* *Improved TRS FNPRM* at ¶ 128.